

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

<b>MIDAS GREEN TECHNOLOGIES, LLC,</b>	§	
	§	
<b>Plaintiff,</b>	§	
	§	
<b>v.</b>	§	<b>Civil Action No. 6:22-cv-50-ADA</b>
	§	
<b>RHODIUM ENTERPRISES, INC., <i>et al.</i></b>	§	
	§	
<b>Defendant.</b>	§	

**JOINT MOTION FOR ENTRY OF AMENDED SCHEDULING ORDER**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiff Midas Green Technologies, LLC (“Midas” or “Plaintiff”) and Defendants Rhodium Enterprises, Inc., Rhodium Technologies LLC, Rhodium 10mw LLC, Rhodium 2.0 LLC, Rhodium 30mw LLC, Rhodium Encore LLC, Rhodium Renewables LLC, Rhodium Renewables Sub LLC, and Rhodium Ready Ventures LLC (“Rhodium” or “Defendants”) and respectfully request this Court extend all deadlines in this matter—including expected trial date of January 16, 2024—by 60 days. In support of this motion, Parties would show the Court the following:

1. This case is still in its early stages. Initially filed on January 13, 2022, this matter involved several motions to dismiss and Midas’ Third Amended Complaint (Dkt. #106) was only filed on March 29, 2023. Accordingly, discovery remains very much ongoing.
2. Parties’ current scheduling order (Dkt. #105), dated March 15, 2023, provides, *inter alia*, for close of fact discovery on July 28, 2023, and close of expert discovery on September 29, 2023. The scheduling order also currently sets the trial date for January 16, 2024.

3. Counsel for both parties have been diligently working on this matter, but given the scope of the remaining discovery to be conducted and the demands of other litigation jointly request a sixty-day extension of all deadlines. Among other litigation demands, counsel have significant deadlines in multiple cases over the next few months including hearings on dispositive motions, claim construction, and trial scheduled for mid-August.
4. In addition, when making the current pretrial schedule, the Parties had not yet finished negotiating the terms of a protective order, which was required before Parties could exchange certain critical discovery necessary for anticipated site inspections, numerous depositions, and expert consultations and reports.
5. However, prior to finishing negotiations on the protective order, Midas and then Rhodium changed trial counsel, which delayed the request for and entry of a protective order until June 7, 2023 (Dkt. #124).
6. Despite that the Parties are diligently working to complete discovery, due to the pressing concerns of other litigation demands and unavoidable delay regarding the protective order, the Parties respectfully request all pending deadlines be extended an additional 60 days in order to allow them to complete the remaining discovery.
7. The Parties request the Court amend the scheduling order as follows:

Event	Current Date	Proposed Date
Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's law clerk to arrange a	7/7/2023	9/5/2023

teleconference with the Court to resolve the disputed issues.		
Close of fact discovery	7/28/2023	9/26/2023
Opening of expert reports	8/11/2023	10/10/2023
Rebuttal of expert reports	9/8/2023	11/7/2023
Close of expert discovery	9/29/2023	11/28/2023
Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. If it helps the parties determine these limits, the parties are encouraged to contact the Court's law clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.	9/29/2023	11/28/2023
Last court day to file joint report regarding results of second meet and confer.	10/6/2023	12/5/2023
Dispositive motion deadline and Daubert motion deadline. See General Issues Note #7 regarding providing copies of the briefing to the Court and the technical advisor (if appointed). (Dkt. 54)	10/5/2023	12/4/2023
Last court day to file and serve response to dispositive motion and Daubert motions. ***Note: CV-7(d)(2) may set different deadline to file response. Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).	10/26/2023	12/26/2023
Serve replies to dispositive motions and Daubert motions	11/2/2023	1/2/2024
Serve objections to pretrial disclosures/rebuttal disclosures	11/8/2023	1/8/2024
Parties to jointly email the Court's law clerk (See OGP at 1) to confirm their pretrial conference and trial dates. File joint notice identifying remaining	11/9/2023	1/8/2024

objections to pretrial disclosures and disputes on motions in limine.		
Last court day to serve objections to rebuttal disclosures; file Motions in limine.	11/15/2023	1/14/2024
File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions in limine.	11/20/2023	1/19/2024
File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com Deadline to meet and confer regarding remaining objections and disputes on motions in limine.	11/20/2023	1/19/2024
Last court day for parties to jointly email to Judge's law clerks text-editable chart listing each motion in limine.	11/22/2023	1/22/2024
Last court day for parties to jointly contact court's law clerk for a Box link to submit to chambers unredacted copies of all pending motions and their exhibits, and to jointly send to chambers paper copies of motions without exhibits. ***Note: Parties to also jointly send courtesy email providing Judge's law clerks with list of pending motions.	11/22/2023	1/22/2024
Last court day for party asserting invalidity or noninfringement to give notice to adverse party of information set forth in 35 USC 282.	12/8/2023	2/6/2024
File Joint notice identifying remaining objections to pretrial disclosures and disputes on motions in limine.	12/8/2023	2/6/2024
Re non-jury trial: Last court day to submit proposed final findings of fact and conclusions of law by email to Judge's law clerks.	12/8/2023	2/6/2024

Final Pretrial Conference. Held in person unless otherwise requested.	12/13/2023	2/12/2024
Reminder: Any party that intends to present evidence at trial that requires the use of technology is required to communicate this intention to court staff in advance of commencement of trial.	12/19/2023	2/19/2024
Reminder: Counsel are required to bring physical copies of any depositions that have been taken of any witnesses who will testify at trial.	12/19/2023	2/19/2024
Jury Selection/Trial Date	1/16/2024	3/18/2024

### CONCLUSION

The Parties respectfully request that the Court enter the above proposed schedule for this case.

Dated: July 12, 2023

/s/ Melissa R. Smith

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Respectfully submitted,

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Counsel for Plaintiff  
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### **CERTIFICATE OF CONFERENCE**

I certify that counsel for all Parties have conferred in good faith and this motion is joint.

/s/ Michael C. Smith  
Michael C. Smith

### **CERTIFICATE OF SERVICE**

I certify that counsel of record who have appeared electronically in this case have been served with a copy of this document via the Court's EM/ECF system.

/s/ Michael C. Smith  
Michael C. Smith